

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions of the United States Court of Appeals for the Federal Circuit and the United States Court of International Trade

Vol. 16

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DECEMBER 7, 1982

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THE DEPARTMENT OF THE TREASURY  
U.S. Customs Service

### NOTICE

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 82-218)

### Bonds

Approval to use authorized facsimile signatures; T.D. 79-241 amended

The use of facsimile signatures on Customs bonds by the following corporate sureties has been approved effective November 12, 1982. Each corporate surety has provided the Customs Service with a copy of each signature that is to be used and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures. This approval is without prejudice to each surety's right to affix signatures manually.

The Hanover Insurance Company, Worcester, Massachusetts

Authorized facsimile signatures on file for:

Mary Beth Duquette, Attorney-in-fact

R. L. Wright, Attorney-in-fact

Michael M. Tracy, Attorney-in-fact

Joseph M. Dresley, Attorney-in-fact

Massachusetts Bay Insurance Company, Worcester, Massachusetts

Authorized facsimile signatures on file for:

Mary Beth Duquette, Attorney-in-fact

R. L. Wright, Attorney-in-fact

Michael M. Tracy, Attorney-in-fact

Joseph M. Dresley, Attorney-in-fact

BON-3-01

Dated: November 12, 1982.

MARILYN G. MORRISON,

*Director,*

*Carriers, Drawback and Bonds Division.*

## 19 CFR Part 111

(T.D. 82-219)

Customs Regulations Amendment Relating to Discharge of an  
Importer's Liability for Duties

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Customs recently published a final rule in the Federal Register which provided an alternative procedure for an importer of record to pay duties on imported merchandise through a licensed customhouse broker. That document required brokers to provide a written notification to their clients that if they elect to pay by check, they may pay Customs charges with a separate check payable to the "U.S. Customs Service." One method of notification involves providing the written statement to each active client annually during the month of February beginning February 1983, and during each February thereafter. An active client is defined to mean a client from whom a broker has obtained a power of attorney. Because the notification procedure and definition of active client may create unintended burdensome results, this document amends the Customs Regulations to alleviate these burdens by providing that (1) the broker shall provide the notification statement to each active client annually beginning no later than February 28, 1983, and at least once at any time within each subsequent 12-month period thereafter; and (2) an active client means a client from whom a broker has obtained a power of attorney and for whom the broker has transacted Customs business on at least two occasions within the 12-month period preceding notification.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Edward B. Gable, Jr., Office of Regulations and Rulings (202-566-5706).

Operational Aspects: Herbert H. Geller, Duty Assessment Division (202-566-5307), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 27, 1982, Customs published a final rule in the Federal Register (T.D. 82-134; 47 FR 32416) which provided an alternative procedure for an importer of record to pay duties on imported merchandise through a licensed customhouse broker. When an importer uses a broker and pays by check or bank draft, the importer often furnishes the broker one check or bank draft covering both

duties and the broker's fees and charges. The broker then pays the duties to Customs on behalf of the importer. Under the alternative procedure, the importer may elect to submit to the broker a separate check or bank draft for the duties, payable to the "U.S. Customs Service." The broker would then deliver the importer's check or bank draft to Customs.

That document also required brokers to provide a written notification to their clients advising that if the clients are importers of record, payment to the brokers will not relieve the clients of liability for Customs charges in the event the charges are not paid by the brokers. Clients also are advised that if they elect to pay by check, they may pay Customs charges with a separate check payable to the "U.S. Customs Service," which shall be delivered to Customs by the broker. Under T.D. 82-134, brokers are required to provide this information statement on, or attached to, a power of attorney executed on or after September 27, 1982. Additionally, brokers are required to provide the statement to each active client annually during the month of February beginning in February 1983, and during each February thereafter. The rule also defined an active client to mean a client from whom a broker has obtained a power of attorney.

It has been brought to Customs attention that the requirement to notify clients during the month of February and the definition of active client are creating unintended burdensome results.

For example, brokers already may send written communications to clients under their present procedures concerning various accounting, reconciliation, and related matters. At that time, which may occur other than during the month of February, brokers could provide clients with the information statement. Customs has no objection to when the notification is given, provided there is written notification at least once within a 12-month period. Accordingly, to alleviate an unintended paperwork burden on brokers, this document amends the first sentence of section 111.29(b)(2)(ii), Customs Regulations (19 CFR 111.29(b)(2)(ii)), to provide that brokers shall provide the information statement to each active client annually beginning no later than February 28, 1983, and at least once at any time within each subsequent 12-month period thereafter.

In a related matter, Customs has determined that the definition of an active client is too restrictive. There may be accounts from whom a broker has obtained a power of attorney but for whom the broker has not transacted Customs business often or within a recent period of time. Accordingly, to further alleviate a burden on brokers, this document amends the second sentence of section 111.29(b)(2)(ii), Customs Regulations, to provide that an active client means a client from whom a broker has obtained a power of attorney and for whom the broker has transacted Customs business on at least two occasions within the 12-month period preceding notification.

## EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

## REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

## INAPPLICABILITY OF PUBLIC NOTICE REQUIREMENT

The amendments are minor, of particular interest only to a limited segment of the general public, and relieve a burden on that segment. Therefore, pursuant to 5 U.S.C. 552(b)(B), notice and public participation are considered to be unnecessary.

## DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

## LIST OF SUBJECTS IN 19 CFR PART 111

Customs duties and inspection, imports, brokers.

## AMENDMENT TO THE CUSTOMS REGULATIONS

Part 111, Customs Regulations (19 CFR Part 111), is amended as set forth below.

ALFRED R. DE ANGELUS,  
*Acting Commissioner of Customs.*

Approved: November 1, 1982.

JOHN M. WALKER, Jr.,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, November 19, 1982 (47 FR 52138)]

## PART 111—CUSTOMHOUSE BROKERS

Section 111.29(b)(2)(ii), Customs Regulations, is revised to read as follows:

§ 111.29 Diligence in correspondence and paying monies.

\* \* \*

(b) *Notice to client of method of payment.*

(1) \* \* \*

(2) Brokers shall provide the information statement in paragraph (b)(1) as follows:

(i) \* \* \*

(ii) To each active client no later than February 28, 1983, and at least once at any time within each subsequent 12-month period thereafter. An active client means a client from whom a broker has obtained a power of attorney, and for whom the broker has transacted Customs business on at least two occasions within the 12-month period preceding notification.

\* \* \* \* \*

(R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended, 77A Stat. 14; (5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, 1641))

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(T.D. 82-220)

Customs Regulations Amendments Relating to Safety Standards  
for Boats and Associated Equipment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the joint regulations of the Customs Service and the Coast Guard relating to safety standards for foreign-made boats and associated equipment. These changes, which are designed to clarify certain filing requirements, eliminate bond requirements in some instances, and implement a more reasonable time limit for the completion of repairs or alterations to such boats and equipment, are expected to reduce compliance burdens on importers and correct problems encountered under the existing regulations.

EFFECTIVE DATE: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Ellison, Office of Boating, Public, and Consumer Affairs (G-BBS-1/42), Room 4213, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-1065), or H. C. Feese, Duty Assessment Division, Room 4118, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 11 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1460), provides that the Secretaries of Transportation and the Treasury may, by joint regulations, authorize the importation of boats or associated equipment which do not conform with applicable Federal safety regulations and standards upon terms and conditions which will assure that the boats or associated equipment will be brought into conformity before being used on waters subject to the jurisdiction of the United States.

Under this authority, Customs and the Coast Guard published T.D. 76-166 in the Federal Register on June 10, 1976 (41 FR 23398), setting forth a new section 12.85, Customs Regulations (19 CFR 12.85), relating to safety standards for boats and associated equipment.

Section 12.85 provides that boats and associated equipment will be denied entry into the customs territory of the United States unless accompanied by evidence of compliance with the standards or regulations. Evidence of compliance may consist of either a compliance certification label affixed to the product or a hull identification number affixed by the importer or the original manufacturer.

Certain products may be permitted entry and release without a compliance certification label or hull identification number if they fall within one of the following categories and if the conditions for entry and release specified in section 12.85 for each category of product are met.

1. Products manufactured before an applicable standard or regulation was in effect.
2. Products exempted from standards or regulations by a Coast Guard Grant of Exemption.
3. Products not in conformity at the time of entry but which will be brought into conformity.
4. Products belonging to nonresidents which are not in conformity and are entering the United States for repair or alteration.
5. Products owned by certain foreign government or international organization personnel.
6. Products entered for tests or experimentation.

Following the issuance of section 12.85, the Coast Guard began an Imported Boats Compliance Program. Project managers for the Coast Guard and Customs reevaluated the program and found it to be deficient in several areas. After numerous meetings between Customs and the Coast Guard, it was determined advisable to modify the program and revise the regulations. Subsequently, a discussion of modifications of proposed regulations amendments was set forth in a notice of proposed rulemaking published in the Federal Register on December 15, 1981 (46 FR 61142).

#### ANALYSIS OF COMMENTS

Only one comment was received in response to the notice. The commenter is opposed to the 1 year limitation in proposed section 12.85(c)(6) in which to enter boats for racing. He claims that 1 year would not allow sufficient time for adequate testing and proper utilization of such equipment. He recommends a 5-year period.

The commenter further contends that proposed section 12.85(d)(6) should be eliminated. This provision would require the identity, if known, of the city or state in which the product will be principally located to be included on the declaration filed with Customs. He argues that it would be impossible to identify the principal location



of the boat because race boats typically are moved from one location to another and prerace testing is generally conducted at sites other than the official race location. Thus, the very nature of boat racing makes it impossible to predict accurately or to plan, with any degree of certainty, the detailed locations of prerace testing or the races themselves.

Both Customs and the Coast Guard are opposed to the 5-year entry period recommended by the commenter. However, to be consistent with Customs statutes and regulations governing similar temporary importations, section 12.85(c)(6) is being modified to provide for a 1-year period with extensions of up to 3 years at the discretion of the district director.

The suggestion to eliminate section 12.85(d)(6) cannot be adopted. This provision and section 12.85(c) are designed to provide proper control over boats which do not comply with the regulations but which are permitted into the United States on strictly a temporary basis. The changes proposed by the commenter would cause Customs and the Coast Guard to lose such control and the ability to insure compliance with the regulations.

After careful analysis of the comment and further review of this matter, the 1-year limitation for entry of boats for racing and associated equipment under section 12.85(c)(6) is adopted, with the addition that this period may be extended at the discretion of the district director of Customs for one or more additional periods, not to exceed a total of 3 years. The other changes to section 12.85 are adopted as proposed.

#### LIST OF SUBJECTS IN 19 CFR PART 12

Customs duties and inspection, imports, importers, and marine safety.

#### REGULATIONS AMENDMENTS

Section 12.85, Customs Regulations (19 CFR 12.85), is amended as follows:

##### PART 12—SPECIAL CLASSES OF MERCHANDISE

#### § 12.85 Coast Guard boat and associated equipment safety standards.

1. Section 12.85(c)(1) is amended by removing the last sentence.
2. Section 12.85(c)(4) is amended by removing "60 days" and inserting "1 year" wherever it appears.
3. Section 12.85(c)(4) is further amended by removing the last sentence.
4. Section 12.85(c)(6) is amended by revising it to read as follows:

\* \* \* \* \*

(6) *Certain products entered for tests, experiments, exhibits, or races.* An importer or consignee seeking to enter a product for a

period not to exceed 1 year, for tests, experiments, exhibits, or races, but not for sale in the United States, shall file a declaration in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is importing the product solely for the stated purpose and that it will not be sold or operated in the United States, unless the operation is an integral part of the stated use for which the product was imported. The importer or consignee shall attach to the declaration a description of use for which the product is being imported, the time period estimated for completion, and disposition to be made of the product after completion. Entry under this paragraph may be authorized for a period not to exceed 1 year from the date of importation. However, this period may be extended at the discretion of the district director for one or more additional periods which, when added to the initial 1-year period, shall not exceed a total of 3 years.

5. Section 12.85(d) is amended by revising it to read as follows:

(d) *Declaration requirements.* All declarations submitted must:

(1) Be filed at the time of entry, in duplicate on Form CG-5096.

(2) Be signed by the importer or consignee.

(3) State the name and U.S. address of the importer or consignee.

(4) State the entry number and date.

(5) Provide the make, model, and hull identification number, if affixed, or date of manufacture if hull identification number not affixed, or any boat, and a description of any equipment or component.

(6) Identify, if known, the city or state in which the product will be principally located.

(7) Be sent by the district director, to the Commandant (G-BBS-1/42), U.S. Coast Guard, Washington, D.C. 20593.

6. Section 12.85(e)(2) is amended by revising it to read as follows:

(e) *Release under bond.*

(1) \* \* \*

(2) *Time limitation to produce statement for which bond is obligated.* Within 180 days after entry, the importer or consignee shall deliver to both the district director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the district director for the port of entry of the product within 180 days after the date of entry, the importer or consignee shall deliver or cause to be delivered to the district director the product that was released in accordance with this paragraph.

\* \* \* \* \*

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended, secs. 5, 6, 7, 11, 15, 85 Stat. 215, 216, 217, 219 (5 U.S.C. 301; 19 U.S.C. 66, 1623, 1624; 46 U.S.C. 1454, 1455, 1456, 1460, 1464) 49 CFR 1.46(n(1))).

## EXECUTIVE ORDER 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

## REGULATORY FLEXIBILITY ACT

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

## DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices and the Coast Guard participated in its development.

ALFRED R. DE ANGELUS,  
*Acting Commissioner of Customs.*

Approved: November 1, 1982.

JOHN M. WALKER, Jr.,  
*Assistant Secretary of the Treasury.*

Approved:

J. S. GRACEY,  
*Commandant, United States Coast Guard.*

[Published in the Federal Register, November 19, 1982 (47 FR 52137)]

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(T.D. 82-221)

## Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of Instruments of International Traffic of a kind specified in section 10.41a of the Customs Regulations

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: November 16, 1982.

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Allied Engineering Co., 230 Park Ave., New York, NY; Old Republic Ins. Co. D 9/7/82	Aug. 29, 1980	Sept. 2, 1980	New York Seaport \$10,000
Boise-Griffin Agencies Inc., 5 Marine View Plaza, Hoboken, NJ; American Casualty Co. of Reading, PA D 8/30/82	Mar. 2, 1982	Mar. 3, 1982	New York Seaport \$10,000
John V. Carr & Son, Inc., 1600 W. Lafayette, P.O. Box 479-A, Detroit, MI; Old Republic Ins. Co. (PB 9/24/68) D 9/24/82 <sup>1</sup>	Sept. 24, 1982	Sept. 24, 1982	Detroit, MI \$10,000
Consolidated Caguas Corp. as subs. of Gulf Western Industries, Inc., P.O. Box 937, Caguas, PR; Puerto Rican American Ins. Co. D 9/3/82	Sept. 3, 1981	Sept. 8, 1981	San Juan, PR \$25,000
Continental Can International Corp., 711 Jorie Blvd., Oak Brook, IL; American Casualty Co. of Reading, PA	Sept. 1, 1982	Sept. 3, 1982	New York Seaport \$10,000
Fisons Western Corp., 805 W. Broadway, Vancouver, B.C., Canada; American Motorists Ins. Co.	Sept. 2, 1982	Sept. 3, 1982	Pembina, ND \$10,000
Gerrard-Ovalstrapping Ltd., 5330 S. Service Rd., Burlington, Canada; United States Fidelity & Guaranty Co.	Apr. 15, 1982	Sept. 20, 1982	Buffalo, NY \$10,000
Jenaro E. Gonzalez, P.O. Box 10526, Caparra Heights, PR; Puerto Rican-American Ins. Co. D 9/13/82	July 13, 1981	July 16, 1981	San Juan, PR \$10,000
Great Lakes Chemical Corp., P.O. Box 2200, W. Lafayette, IN; Washington International Ins. Co.	Aug. 10, 1982	Aug. 12, 1982	New Orleans, LA \$10,000
The Hipage Co., Inc., 227 E. Plume St., Norfolk, VA; Washington International Ins. Co. (PB 8/13/74) D 8/16/82 <sup>2</sup>	Aug. 13, 1982	Aug. 16, 1982	Norfolk, VA \$10,000
Inter-Maritime Forwarding Co., Inc. & its wholly owned sub: Inter-Maritime Forwarding Co. Air Cargo, Inc., 1 World Trade Center, New York, NY; Washington International Ins. Co. (PB 5/14/82) D 8/23/82 <sup>3</sup>	Aug. 23, 1982	Aug. 25, 1982	New York Seaport \$10,000
Jordan & Ste-Michelle Cellars, Ltd., 15050 54A Ave., Surrey, B.C., Canada; Old Republic Ins. Co.	Aug. 31, 1982	Sept. 2, 1982	Seattle, WA \$10,000
Norsk Pacific Steamship Co., Ltd., P.O. Box 3441, San Juan, PR; St. Paul Fire & Marine Ins. Co.	Aug. 30, 1982	Aug. 30, 1982	San Francisco, CA \$10,000
Novo Laboratories Inc., 59 Danbury Rd., Wilton, CT; Old Republic Ins. Co. D 10/4/82	Sept. 6, 1979	Sept. 6, 1979	New York Seaport \$10,000

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Peck & Hale, Inc., West Sayville, NY; Washington International Ins. Co.	Oct. 4, 1982	Oct. 6, 1982	New York Seaport \$10,000
Puerto Rican Cement Co., Inc., G.P.O. Box 4487, San Juan, PR; New Hampshire Ins. Co. (PB 8/7/81) D 9/16/82	Sept. 17, 1982	Sept. 17, 1982	San Juan, PR \$10,000
Robeco Chemicals, Inc., 99 Park Ave., New York, NY; Washington International Ins. Co.	Sept. 24, 1982	Sept. 27, 1982	New York Seaport \$10,000
Rohm & Haas Co., 3475 Investment Blvd., Hayward, CA; Washington International Ins. Co.	Sept. 13, 1982	Sept. 14, 1982	San Francisco, CA \$10,000
Sea Container Ltd., Argus Bldg., Wesley St., P.O. Box 1524, Hamilton, Bermuda; Washington International Ins. Co.	Aug. 23, 1982	Aug. 24, 1982	New York Seaport \$10,000
Sumitomo Corp. of America, 345 Park Ave., New York, NY; Federal Ins. Co. (PB 8/20/79) D 8/20/82 <sup>4</sup>	Aug. 5, 1982	Aug. 20, 1982	New York Seaport \$50,000
Teijin America Inc., 80 Pine St., New York, NY; Federal Ins. Co. D 8/9/82	May 18, 1971	May 19, 1971	New York Seaport \$10,000
United Tank Containers Inc., 2 World Trade Center, New York, NY; Washington International Ins. Co. (PB 8/3/79) D 8/3/82 <sup>5</sup>	July 27, 1982	Aug. 6, 1982	New York Seaport \$10,000
Vectra Corp., 8305 Telegraph Rd., Odenton, MD; Washington International Ins. Co. D 9/23/82	Sept. 24, 1979	Nov. 21, 1979	Baltimore, MD \$10,000
Julius Wile Sons & Co., Inc., One Hollow Lane, Lake Success, NY; Federal Ins. Co.	Apr. 8, 1982	Apr. 27, 1982	Los Angeles, CA \$50,000
Julius Wile Sons & Co., Inc., 320 Park Ave., New York, NY; Federal Ins. Co. D 4/27/82	Sept. 29, 1977	Oct. 27, 1977	New York Seaport \$10,000

<sup>1</sup> Surety is St. Paul Fire & Marine Ins. Co.<sup>2</sup> Surety is Peerless Ins. Co.<sup>3</sup> Principal is Inter maritime Forwarding Co., Inc.<sup>4</sup> Surety is Old Republic Ins. Co.<sup>5</sup> Surety is Old Republic Ins. Co.

BON-3-10

MARILYN G. MORRISON,  
*Director,*  
*Carriers, Drawback and Bonds Division.*

# U.S. Customs Service

## *Proposed Rulemaking*

19 CFR Part 141

Proposed Customs Regulations Amendment Relating to Entry of  
Cotton Fabrics

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the requirement for additional invoice information for specified "cotton fabrics", by eliminating the use of a Customs form to furnish that information and instead allow the use of a standardized commercial invoice for that purpose. This change would eliminate duplicative information and an unnecessary form, thus simplifying the procedure and lessening the reporting burden for importers.

DATES: Comments must be received on or before January 18, 1983.

ADDRESS: Comments (preferably in triplicate) shall be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Herbert M. Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5307).

SUPPLEMENTARY INFORMATION:

### BACKGROUND

Section 141.81, Customs Regulations (19 CFR 141.81) provides that, depending on the circumstances of each importation, either a special Customs invoice, a special summary invoice, or a commercial invoice must be presented for each shipment of merchandise imported into the United States at the time the entry documentation is filed with Customs.

Moreover, the invoices for certain classes of merchandise specified in section 141.89(a), Customs Regulations (19 CFR 141.89(a)),

e.g., "cotton fabrics" classifiable under various item numbers in the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), must contain additional information set forth in detail in that section. Customs Form (CF) 5519 "Invoice Details for Cotton Fabrics and Linens," has been developed for furnishing the additional information required by section 141.89(a) in the case of enumerated cotton fabrics.

As part of an ongoing program to align and simplify the international documentation used in foreign trade, the National Committee on International Trade Documentation (NCITD)—a broad-based trade group—and Customs officials from Region II (New York), have developed a joint proposal for reporting cotton fabric details. The proposal would allow the additional information required to be submitted on a commercial invoice standardized in size, format, and information content and would eliminate the use of the CF 5519 in those instances.

At present, importers of cotton fabrics specified in section 141.89(a) and consisting of one style or design of fabric ("one line"), have to file two documents with Customs—a commercial invoice and a CF 5519—when they enter their merchandise. For shipments consisting of more than one style or design of fabric ("Multiple line"), an importer has to file multiple invoices and CF 5519s.

Under the proposal, multiple line shipments would still require several invoices or an addendum to an invoice, but the procedure would be simplified because only one type of document, a standardized commercial invoice, would be involved. However, in the case of one line entry, the proposal would permit the use of a single document, the standardized commercial invoice, to furnish the additional information required, and eliminate the need to file an extra document, the CF 5519, with the entry. An importer of a one line shipment of cotton fabric would file only one document instead of the present two.

Customs has determined that approximately 55,000 CF 5519s were filed during 1979, representing a 4,600 annual reporting hours burden for importers. As multiple line entries account for only about 30 percent of total entries of shipments of cotton fabric, Customs would be able to reduce the filing and reporting figures mentioned above by 70 percent, *i.e.*, 38,500 forms and 3,220 hours.

In using the standardized commercial invoice, Customs would not request any more information from an importer than is now furnished on the invoice and CF 5519 together. Rather, Customs would eliminate duplicative information and an unnecessary form, thus simplifying the procedure and lessening the reporting and paperwork burden for importers.

#### LIST OF SUBJECTS IN 19 CFR PART 141

Customs duties and inspection, imports, invoices.

## PROPOSED REGULATIONS AMENDMENTS

It is proposed to amend Part 141, Customs Regulations (19 CFR Part 141), in the following manner:

## PART 141—ENTRY OF MERCHANDISE

In section 141.89(a), Customs Regulations, under the paragraph beginning with the words "Cotton fabrics", the last sentence which reads "Customs Form 5519 is acceptable for furnishing the additional information required above." is removed and the following sentence inserted in its place "A standardized commercial invoice may be used for furnishing the additional information required above."

## AUTHORITY

The amendment is proposed under the authority of R.S. 251, as amended, sections 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624).

## COMMENTS

Appended to this document is a sample copy of the proposed commercial invoice and the addendum to the invoice. Public comment is invited on their suggested content and format, and the effect of the elimination of CF 5519 to furnish the required information. Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b)), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

## EXECUTIVE ORDER 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

## REGULATORY FLEXIBILITY ACT

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed amendment will not have a significant economic impact on a substantial number of small entities. On the contrary, the proposal is expected to reduce the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.



Accordingly, the Secretary of the Treasury certifies under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities.

#### DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

Approved: August 25, 1982.

JOHN M. WALKER, Jr.,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, November 19, 1982 (47 FR 52193)]

# COMMERCIAL INVOICE

## APPENDIX

SHIPPER/EXPORTER/MANUFACTURER/SELLER (1)		DOCUMENT NO. (5)	INVOICE DATE AND NO. ② Purchase Date
		OTHER REFERENCES (6)	
CONSIGNEE TO ORDER OF SHIPPER/PORT AGENT/BANK (3A)		BUYER (7)	
COUNTRY OF ORIGIN (3B)		PRINT AND COUNTRY OF ORIGIN OF SHIPMENT (8)	
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (4)		TERMS (9) SALE DELIVERY PAYMENT DISCOUNT/INSTRUCTIONS REMITTANCE ADDRESS CURRENCY OTHER	
PIED ON AIRCRAFT (10)			
EXPORTING CARRIER (VESSEL/AIRLINE) (11)	PORT OF LOADING (12)		
AIR/SEA PORT OF DISCHARGE (13)	FOR TRANSHIPMENT TO (14)		

PARTICULARS FURNISHED BY SHIPPER				
MARKS AND NUMBERS (15)	NO. OF PKGS. (16)	DESCRIPTION OF PACKAGES AND GOODS (17)	GROSS WEIGHT (18)	MEASUREMENT (19) (CUBE)
Case Marks	①⑥	⑤ Style/Quality No.	①⑦	①⑨
Case No.	Quantity	⑦ Description of merchandise		
		⑥ Width		
		⑧ Threads per sq. inch		
		⑨ Weight per sq. yd. (oz.)		

- ⑩ Average yarn No.      ⑪ Yarn size in warp  
 ⑫ Yarn size in filling      ⑬ No. colors or kinds  
 ⑭ How woven (continue on reverse, if necessary)

Goods Total
Freight
Insurance
Packing
Commissions
Other (Specify)
Invoice Total (2)

## 17

[illegible]



## Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the U.S. Customs Service is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Customs Service Decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the U.S. Customs Service. Individuals to whom any of these decisions would be of interest should read the limitations expressed in 19 CFR 177.9(c).

A copy of any decision included in this listing, identified by its date and file number, may be obtained through use of the microfiche facilities in Customs reading rooms or if not available through those reading rooms, then it may be obtained upon written request to the Office of Regulations and Rulings, Attention: Legal Retrieval and Dissemination Branch, Room 2404, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Copies obtained from the Legal Retrieval and Dissemination Branch will be made available at a cost to the requester of \$0.10 per page. However, the Customs Service will waive this charge if the total number of pages copies is ten or less.

The microfiche referred to above contains rulings/decisions published or listed in the Customs Bulletin, many rulings predating the establishment of the microfiche system, and other rulings/decisions issued by the Office of Regulations and Rulings. This microfiche is available at a cost of \$0.15 per sheet of fiche. In addition, a keyword index fiche is available at the same cost (\$0.15) per sheet of fiche.

It is anticipated that additions to both sets of microfiche will be made quarterly. Requests for subscriptions for the microfiche should be directed to the Legal Retrieval and Dissemination Branch. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: November 12, 1982.

MARVIN AMERNICK,  
(For Director,  
Regulations Control and Disclosure Law Division).

Date	Control No.	Issue
10-14-82	069954	Classification: A men's jacket with a flange feature at each armhole constitutes ornamentation for tariff classification purposes (380.04)
10-20-82	070076	Classification: A ladies prairie skirt having a free standing flange feature is considered ornamented for tariff classification purposes (383.08)
09-28-82	070302	Classification: Textile patches (386.50, 389.62)
10-26-82	105822	Vessels: The towing by three foreign-built and foreign-flag tugs of a pipeline from the United States mainland to two oil drilling platforms on the United States outer continental shelf and the laying of that pipeline between those platforms by the tugs does not violate the coastwise laws (46 U.S.C. 289, 316(a) and 883)
10-25-82	105846	Vessels: The proposed voyage of a foreign-flag passenger vessel between a United States port and a foreign port with calls at one intervening foreign and three intervening United States ports would constitute a violation of 46 U.S.C. 289

# United States Court of Appeals for the Federal Circuit

(Appeal No. 82-12)

SIEMENS AMERICA, INC., ET AL., APPELLANTS v. THE UNITED  
STATES, APPELLEE

(Decided: November 12, 1982)

*Louis Schneider* argued for appellants. With him on the brief was *Freeman, Wasserman & Schneider*.

*Madeline B. Kuflik* argued for appellee. With her on the brief was Assistant Attorney General *J. Paul McGrath*.

Before *RICH*, Circuit Judge, *COWEN*, Senior Circuit Judge and *KASHIWA*, Circuit Judge.

*RICH*, Circuit Judge.

This appeal is from the decision and judgment of the United States Court of International Trade, 2 CIT —, Slip. Op. 81-91 (October 7, 1981), on remand from the United States Court of Customs and Patent Appeals (CCPA), in *United States v. Siemens America, Inc.*, 84 Cust. Ct. 180, C.D. 4856, 496 F. Supp. 266 (1980), *rev'd*, 68 CCPA —, C.A.D. 1266, 653 F.2d 471 (1981), holding that an established and uniform practice to classify the merchandise at issue (surge voltage protectors [SVPs]) under TSUS item 687.60 did not exist within the meaning of 19 USC 1315(d) and that, therefore, no published notice was required before the Customs Service imposed a higher rate of duty under TSUS item 685.90. We affirm the judgment dismissing the action.

## BACKGROUND

Familiarity is presumed with the background of this case, as found in the opinions cited above.

Notwithstanding the CCPA ruling that the merchandise is properly classified under TSUS item 685.90, the sole issue on this second appeal is the validity of appellants' contention, considered on remand from the CCPA, that such classification is not applicable to appellants' importations because the Customs Service change in classification of the SVPs to item 685.90 from item 687.60 was a

change in an "established and uniform practice" as contemplated by 19 USC 1315(d) which, therefore, required notice by publication before it could become effective.

#### OPINION

The Court International Trade stated that "plaintiffs do not contend that the letter of July 27, 1970 contains a *finding* of an established and uniform practice respecting the classification of SVPs." (*Italic ours.*) Nor do they so contend in this court. It is here argued that the letter ruling "mandated the establishment of a uniform practice," that it "[created] a uniform practice," and that it "established in fact this uniform practice."

As noted by the government, however, the statement in the unpublished letter ruling that "This decision is being circulated to all Customs Officers in order that the merchandise may be uniformly so classified at each port at which it may be entered," is a practice which is necessary in order to conform with the constitutional mandate that "all Duties, Imposts and Excises shall be uniform throughout the United States." U.S. Const. art. I, § 8, cl. 1. Accordingly, this does not aid appellants in their argument that from that letter ruling alone "there resulted an established and uniform practice."

Notwithstanding that appellants cannot point to a "finding" by the Secretary of an established and uniform practice, they contend that distribution of the letter ruling and the subsequent liquidation of approximately 100 entries under item 687.60 over a period of almost two years at the Port of New York created an established and uniform practice as to the classification of the SVPs.

Assuming, *arguendo*, that a "finding" by the Secretary is not a prerequisite to application of 19 USC 1315(d), *c.f. Ditbro Pearl Co. v. United States*, 66 CCPA 95, C.A.D. 1152, 515 F.2d 1157 (1975), we agree with the Court of International Trade that appellants have nevertheless failed to sustain their burden of proving that there existed an established and uniform practice of classifying the SVPs under TSUS item 687.60.

Appellants' efforts at trial centered almost exclusively on attempting to establish erroneous classification of the SVPs on the basis of expert testimony as to their physical attributes, and the record, at best, shows only that for two years appellants' imported SVPs were uniformly classified at the Port of New York and that, thereafter, they were classified under TSUS item 685.90.<sup>1</sup> Further, as noted by the trial court, appellants failed to prove that they were the sole importer of SVPs and that SVPs were imported solely at the Port of New York.

<sup>1</sup> We say "at best" because although a witness for appellants testified that after the letter ruling "Approximately a hundred entries, covering the time of two years" were liquidated pursuant to TSUS item 687.60, the record also indicates that during the first five months of 1970 a number of entries were liquidated under TSUS item 685.90. Those liquidations were protested before the issuance of the letter ruling, but the protests were denied almost five months after its issuance.



Because the *unpublished* letter ruling cannot make up for the insufficiency of appellants' evidence, the judgment of the trial court is *affirmed*.

# International Trade Commission Notices

*Investigations by the U.S. International Trade Commission*

DEPARTMENT OF THE TREASURY, November 17, 1982.

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers others concerned.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

In the matter of CERTAIN CUBE PUZZLES	}	Investigation No. 337-TA-112  <i>Notice of Termination of Four Respondents Based on Settlement Agreements</i>
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AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation as to respondents Robert S. Koons and Associates, Rand International, Korvettes, Inc., and John N. Hansen Co., Inc. based on settlement agreements.

SUMMARY: On June 15, 21, and 29, 1982, complainant, Ideal Toy Corp. (Ideal), and respondents Robert S. Koons and Associates (Koons), Rand International (Rand), Korvettes, Inc. (Korvettes), and John N. Hansen Co., Inc. (Hansen), moved in four separate joint motions (Motions Nos. 112-19, 112-21, 112-22, and 112-25) to terminate the investigation as to the above-named respondents on the basis of settlement agreements. On July 14, 1982, the presiding officer recommended that the four joint motions be granted. A Federal Register notice was published on August 25, 1982, seeking comments from interested members of the public and other Government agencies on the proposed termination of these respondents. 47 F.R. 37310. No comments were received. On November 8, 1982, the Commission granted the joint motions to terminate the investigation as to respondents Koons, Rand, Korvettes, and Hansen on the basis of the settlement agreements.

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain cube puzzles. Notice of the institution of the investigation was published in the Federal Register of December 29, 1981 (46 F.R. 62964).

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**FOR FURTHER INFORMATION CONTACT:** William F. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0499.

By order of the Commission.

Issued: November 15, 1982.

KENNETH R. MASON,  
*Secretary.*

In the matter of  
CERTAIN PLASTIC-CAPPED  
DECORATIVE EMBLEMS

} Investigation No. 337-TA-121

*Notice*

Notice is hereby given that a prehearing conference scheduled for November 29, 1982 and the hearing scheduled to commence immediately thereafter (47 Fed. Reg. 44169, October 6, 1982) are cancelled.

The Secretary shall publish this notice in the Federal Register.

Issued: November 8, 1982.

JANET D. SAXON,  
*Administrative Law Judge.*

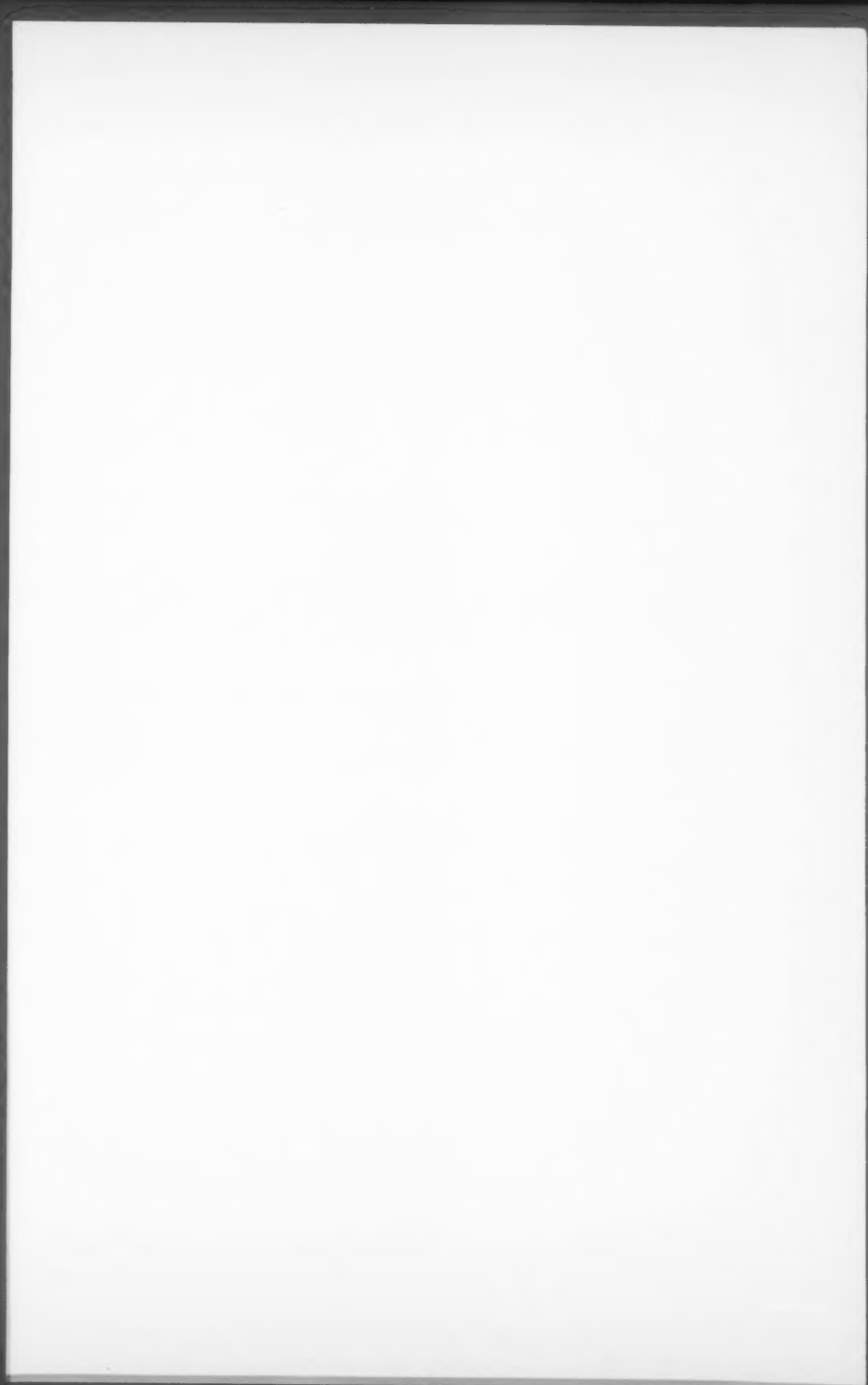
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## Court of Appeals for the Federal Circuit

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